IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: - 21.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.315 of 2006

Arumugam ... Petitioner

vs.

1. Secretary to the Government,
Prohibition and Excise Department,
Secretariat, Chennai.

2. The District Collector
cum District Magistrate,
Tiruvannamalai District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to call for the records relating to the detention order passed by the 2nd respondent in D.O.No.15/2006-C2 dated 14.03.2006 relating to detenu Arumugam, S/o.Pachaiyappa Gounder, Sadayanodai, Thiruvannamalai District, order production of the body of the person Arumugam before Court and set him at liberty by quashing the detention order.

For Petitioner : Mrs.D.Malarvizhi,
for Mr.R.Margabandhu.

For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by V.DHANAPALAN, J.)

The petitioner challenges the detention order, dated 14.03.2006, detaining him as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,

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Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 23.03.2006, remarks were called for on 24.03.2006 and the same were received from the Sponsoring Authority on 03.04.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 04.04.2006. Finally, the Minister for Prohibition and Excise passed orders on 05.04.2006. However, the rejection letter was prepared only on 10.04.2006. The said letter was sent to the Central Prison for service on 12.04.2006 and served to the detenu on 15.04.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 05.04.2006, there is no reason for taking time till 10.04.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

सत्यमेव जयते

JI.

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.
2. Dt. Collector & District Magistrate, Tiruvannamalai Dt.
3. The Superintendent, Central Prison, Vellore.
   (In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.R.Margabandhu, Advocate, SR.26504

pv (co)

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